



# The Southern Region Review

August 2011 , Region 4 Edition



The US Army Regional Environmental & Energy Office produces this publication to provide current information in regard to environmental actions and events throughout Federal EPA Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). Events chosen may be relevant to U.S. Army and other Military Services' activities and operations. The Review is designed to alert environmental decision makers, planners, and program managers of developments potentially relevant to overall responsibilities.

*The Southern Region Review* is a monthly electronic publication. To receive this publication, please email the request to [rebecca.shanks@us.army.mil](mailto:rebecca.shanks@us.army.mil). Please include a contact name and email address in the body of the message.

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# Hot Topics

**2011 ARMY-AIR FORCE ENERGY FORUM (19-20 JULY)** Held in Arlington, VA, the event's theme was "Power the Force. Fuel the Fight." Army, Air Force, government and industry energy representatives discussed energy strategies, identified opportunities and challenges, and shared best practices. Discussion topics included sustainability, tactical vehicles, partnership opportunities, energy legislation and policy, culture change and supporting the war fighter. All event materials will be made available online. When proceedings are posted, attendees will receive an e-mail with a link, username, and password for access.

**GOPHER TORTOISE (07/27/11, 76 FR 45130)** USFWS has issued their [12-month status review](#) for the Gopher tortoise (GT). In the western range States, west of the Tombigbee River in Alabama, Mississippi and Louisiana, the GT will continue to be listed as threatened under the ESA. The eastern portion of the GT range includes Alabama (east of the Tombigbee and Mobile Rivers), Florida, Georgia and southern South Carolina. USFWS has determined that listing of GT east of Mobile Bay is warranted; however, further action to list is precluded by higher priority listing actions. The eastern population will be added to the list of candidate species. It has been assigned a listing priority number of eight due to moderate threats facing the species; listing priority numbers range from one to 12, one being the highest priority. Military services will not be required to conduct section 7 consultations for the foreseeable future. While candidate species receive no statutory protection under the ESA, inclusion on the candidate list promotes cooperative conservation efforts for these species. The military, in cooperation with other Federal, State and nongovernment organization partners, has long been engaged in conservation efforts both on and off the installation. One such endeavor includes development and implementation of a GT Candidate Conservation Agreement (CCA), which is designed to remove enough threats to the GT to preclude the need to list it as endangered or threatened under the ESA. For further information: David L. Hankla, FWS, North Florida Office, Jacksonville, FL; 904-731-3308.

**NATIONAL FEDERAL FACILITIES COMPLIANCE & ENFORCEMENT FY 2012 PROGRAM AGENDA (07/29/11)** The Federal Facilities Program strives to achieve EPA's strategic goal of improving compliance by ensuring Federal agencies comply with environmental laws. This [agenda](#) details the focus of EPA's FY12 Federal facilities compliance and enforcement activities.

## Conferences and Training

**VARIOUS DATES AND LOCATIONS: [USACE 2011 PROSPECT TRAINING](#).** The PROSPECT Program provides job-related training through technical, professional, managerial and leadership courses to meet the needs of USACE and other government agencies. The catalog for the PROSPECT Program, the Purple Book, lists over 200 supporting the missions of USACE. Courses are available to federal, state or local government employees.

**VARIOUS DATES AND LOCATIONS THROUGHOUT NC: [CONTINUING EDUCATION ENVIRONMENTAL, SAFETY & HEALTH WORKSHOPS](#).** NC State University offers various environmental courses, to include HAZWOPPER, Hazardous Waste Management, Hazardous Materials Transportation and more.

**VARIOUS DATES AND TIMES ONLINE: [NPDES TRAINING COURSES AND WORKSHOPS](#).** Training courses, workshops, and webcasts explain the regulatory framework and technical considerations of the NPDES Permit program; designed for permit writers, dischargers, USEPA officials and other interested parties.

**VARIOUS DATES AND TIMES ONLINE: [INTERSTATE TECHNOLOGY AND REGULATORY COUNCIL \(ITRC\) INTERNET BASED TRAINING](#).** ITRC is a state-led coalition working together with federal partners, industry, academia, and stakeholders to achieve regulatory acceptance of environmental technologies. In conjunction with EPA's Technology Innovation and Field Services Division (TIFSD), ITRC delivers training courses via the Internet to reach a geographically dispersed audience of regulators, consultants, and other members of the environmental community. The training sessions last approximately two hours, cover technical and regulatory information specific to environmental technologies and innovative approaches, and are supported by consensus-based ITRC guidance documents.

**VARIOUS DATES AND TIMES: [EPA RCRA TRAINING](#).** RCRA-related online courses, seminars, webinars, podcasts, and videos are posted throughout USEPA's waste website. Introductory and advanced courses are included for federal and state regulators, the regulated community, organizations, associations, and consumers interested in environmental laws, regulations and implementation.

**ANYTIME ONLINE: [EPA WATERSHED ACADEMY](#).** The website offers a variety of self-paced training modules that represent

a basic and broad introduction to the watershed management field. Modules vary in time to complete, from 1/2 hour to 2 hours.

**ANYTIME ONLINE:** [EPA RESOURCE CONSERVATION CHALLENGE ACADEMY](#). The academy series provides information to materials management stakeholders through webinars related to EPA's Resource Conservation Challenge. Learn about key issues, successful projects, and a variety of best management practices for creating stellar waste management programs.

**ANYTIME ONLINE:** [EPA REDUCES RUNOFF VIDEO](#). Online video highlights green building techniques (rain gardens, green roofs, etc.) to help manage stormwater runoff.

**ANYTIME ONLINE:** [DEFENSE ACQUISITION UNIVERSITY \(DAU\)](#). DAU developed on-line resources available for the DoD AT&L workforce, industry partners, and other federal, state, and local government organizations. The on-line resources provide the ability to apply for a course, take a continuous learning module for continuous learning credit, research policy and other documents, link to related learning and knowledge content, ask a professor a question, contribute knowledge objects (such as lessons learned, best practices, templates, or samples), or collaborate with peers on work issues.

**ANYTIME ONLINE:** [DOILEARN](#). DOI Learn houses natural resource courses and training offered by all organizations within the Department of Interior, to include the National Park System, Fish and Wildlife Service, Bureau of Land Management, etc.

**ANYTIME ONLINE:** [GOLEARN](#). GoLearn provides government employees and military personnel with web-based learning and development courses, and other products and services. Site registration is required, including a nominal fee for federal users.

**ANYTIME ONLINE:** [ARMY PODCAST SERVICE](#). The Army offers free podcasts on a wide variety of topics, including an environmental series, an Army Corps of Engineers series, and many more. The podcasts are available through a free subscription service. It is not necessary to own an ipod in order to view or listen to a podcast.

**ANYTIME ONLINE:** [TRAINING FOR FEDERAL GHG INVENTORIES](#). A component of FedCenter's broader "Greenhouse Gas Inventory Reporting" site is available. The FEMP-developed training offers three types of training that can help in understanding the processes needed to develop an agency's GHG inventory under EO 13514 section 9. These trainings include online interactive courses, archived webinar videos and PowerPoint files from training courses.

**AUGUST 16-18, COLORADO SPRINGS, CO:** [AMERICAN INDIAN CULTURAL COMMUNICATION COURSE](#). Indian Specialists in history, culture, intercultural communication and consultation, and DoD legal staff will teach this acclaimed training. This free course provides valuable information for DoD employees whose work could affect Indian tribes and for those already working with tribes and tribal members.

**AUGUST 17, ATLANTA, GA: ENVIRONMENTAL JUSTICE STAKEHOLDER DIALOGUE.** EPA Region 4, in conjunction with the National Parks Service, will conduct a dialogue from 3:00pm-6:30pm at Clark-Atlanta University. The meeting will have a youth focus and will draw on community organizations, as well as students from local universities. The event will provide an opportunity for stakeholders (grassroots communities, business/industry, academics and other interested parties) to discuss best practices, model programs and explore how the Federal government can meet responsibilities and work effectively with communities experiencing environmental justice issues. This Student/Community dialog will be conducted World Cafe Style. The goal of having a Café conversation is to foster collaborative dialogue, active engagement and constructive possibilities of action. Please RSVP to [smith.karen@epa.gov](mailto:smith.karen@epa.gov) or 404-562-9703. Space is limited.

**AUGUST 25-26, BOISE, ID: WESTERN ENERGY [POLICY RESEARCH CONFERENCE \(WEPRC\)](#).** WEPRC is a conference for academic and professional energy policy researchers. Presenters are required to submit papers and discuss research to advance the state-of-the-art, analyze policies, and foster research collaborations dealing with an increasingly carbon-constrained economy and regulatory environment. This conference is for you if you are seeking to present or discuss energy policy research with participants and panelists from academia, think- tanks and research institutes, NGOs, national laboratories, industry, and government.

**SEPTEMBER 18-22, BLACKSBURG, VA: [17TH ANNUAL INTERNATIONAL CONFERENCE OF THE INTERNATIONAL SOCIETY FOR TERRAIN VEHICLE SYSTEMS \(ISTVS\)](#).** ISTVS is an educational, non-profit, non-political organization with the mission to advance the knowledge in terrain-vehicle (machine) systems for improvements in engineering practice and for innovation, and to promote the transfer of advanced knowledge to the user for the benefit of society at large in environmental

protection, energy conservation, and sustainable development.

**SEPTEMBER 20-22, WASHINGTON, DC:** [RETECH 2011: THE RENEWABLE ENERGY TECHNOLOGY CONFERENCE & EXHIBITION](#). RETECH continues the tradition of assembling renewable energy technologies, industries and applications in one place; providing government officials, utility executives, engineers, financiers, and other industry professionals a one-stop annual update on renewable energy.

**SEPTEMBER 20- 22, PROVIDENCE, RI:** [LABS21 ANNUAL CONFERENCE 2011](#). Labs21 is sponsored by EPA and the International Institute for Sustainable Laboratories. The event is the largest gathering of sustainable laboratory professionals in the nation. Labs21 is designed to meet needs as laboratory and high performance facility designers, engineers, owners and facility managers. The conference offers professionals an opportunity for information exchange and education through three interactive components: Partnership Program, Training and Education, Tool Kit.

**SEPTEMBER 27-29, BOSTON, MA:** [ENERGYSMART CONFERENCE 2011](#). Through three days of enlightening sessions and keynotes led by both industry experts and your peers, you'll be able to connect with fellow facility managers, energy decision makers, government energy officers, corporate sustainability leaders, environmental health and safety officers, energy management service providers, and smart grid industry influencers from across the globe to discuss how businesses create a positive bottom line impact through better energy management.

**OCTOBER 3-7, CHAPEL HILL, NC:** [2011 WATER AND HEALTH CONFERENCE: WHERE SCIENCE MEETS POLICY](#). The conference will bring together experts from academia, industry, non-governmental organizations, government and foundations to provide an interdisciplinary perspective spanning science, policy, practice and economics. The conference will consider drinking water sanitation, hygiene and water resources with a strong public health emphasis, and address critical concerns relevant to both the developing and developed worlds.

**OCTOBER 4, WASHINGTON, DC:** [2011 SUMMIT – DRIVING ENERGY EFFICIENCY AS THE NEXT BIG THING](#). The Alliance to Save Energy will assemble high-level government officials and energy efficiency experts for a discussion on the future of energy efficiency.

**OCTOBER 31-NOVEMBER 2, WASHINGTON, DC:** [2011 GREENGOV SYMPOSIUM](#). The second annual symposium, aims to bring together leaders from government, the private sector, non-profits and academia to identify opportunities to create jobs, grow clean energy industries, and curb pollution by greening the Federal Government. This year's event will be co-sponsored by CEQ and the Association of Climate Change Officers.

**OCTOBER 12-14, CHICAGO, IL:** **34<sup>TH</sup>** [WORLD ENERGY ENGINEERING CONGRESS](#). WEEC is recognized as an important energy event of national and international scope for end users and energy professionals in all areas of the energy field. It is a comprehensive forum where one can fully assess the "big picture," and see how the economic and market forces, new technologies, regulatory developments and industry trends all merge to shape critical decisions on organizations' energy and economic future. The WEEC features a large, multi-track conference agenda, a full line-up of seminars on a variety of current topics, and a comprehensive exposition of the market's most promising new technologies.

**NOVEMBER 3-4, TAMPA, FL:** [BEYOND SUSTAINABILITY: ECOSYSTEMS, ECONOMICS, AND EDUCATION CONFERENCE](#). This conference integrates traditional presentations with opportunities to dive deeper into topics and learn from others' broad experiences. Engage in meaningful conversations with colleagues, discover new friends and cultivate potential collaborations with educators, researchers, policy makers, regulatory agency experts, administrators and community members.

**NOVEMBER 7-8, GREENSBORO, SC:** [SECOND INTERNATIONAL CONFERENCE ON GREEN AND SUSTAINABLE TECHNOLOGY](#). This is a technical conference for engineers, scientists, researchers and practitioners in engineering, renewable energy technologies, architecture, construction, construction materials and related fields.

**NOVEMBER 8-10, WASHINGTON, DC:** [2<sup>ND</sup> ANNUAL GRIDWISE FORUM](#). This unrivaled international gathering of policy and corporate leaders, technology innovators, legislators, regulators, consumer and environmental advocates will convene to deliver on the promise of a smart grid.

**NOVEMBER 29-DECEMBER 1, WASHINGTON, DC:** [PARTNERS IN ENVIRONMENTAL TECHNOLOGY TECHNICAL SYMPOSIUM & WORKSHOP](#). The workshop is a nationally recognized conference focusing on (DoD priority environmental issues. Attendees span the military Services, academic and research institutions, private sector technology and environmental firms, and Federal, state, and local regulatory and policy making organizations. This year's event will offer an opening Plenary Session where the SERDP and ESTCP Projects of the Year will be announced, 15 technical sessions and four short

courses, more than 450 technical poster presentations, and exhibitors from funding and partnering organizations.

**NOVEMBER 29-DECEMBER 2, WASHINGTON, DC: [BEHAVIOR, ENERGY, AND CLIMATE CHANGE CONFERENCE](#).** This is the fifth annual conference focused on understanding the nature of individual and organizational behavior and decision making, and using that knowledge to accelerate our transition to an energy-efficient and low carbon economy.

**NOVEMBER 30-DECEMBER 1, WASHINGTON, DC: [GOVGREEN](#).** This is the only independent conference and exposition created specifically for government professionals charged with developing, implementing and managing green and sustainable programs. GOVgreen is an opportunity to learn, network and problem-solve at an event dedicated to making the government green. FREE to federal government and military professionals, the GOVgreen Conference and Exposition will showcase federal leaders presenting case histories, best practices and their plans and programs to green the federal government. More than 20 sessions will focus on the program areas affected President Obama's Executive Order 13514, with tracks on energy, transportation, conservation and facilities.

## Federal Notices and Rulemaking

### Air

**AIR POLLUTION RULE (07/06/11)** EPA finalized a rule that helps States reduce air pollution and attain clean air standards. The [Cross-State Air Pollution Rule \(CSAPR\)](#) requires 27 states to significantly improve air quality by reducing power plant emissions that contribute to ozone and/or fine particle pollution in other states. This rule replaces EPA's 2005 Clean Air Interstate Rule (CAIR).

**ONBOARD REFUELING VAPOR RECOVERY (ORVR) AND STAGE II WAIVER (DRAFT) (07/15/11, [76 FR 41731](#))** EPA is proposing criteria for determining whether ORVR is in widespread use for purposes of controlling motor vehicle refueling emissions throughout the motor vehicle fleet. Once the Administrator has determined widespread use has occurred, the Administrator may waive CAA statutory requirements for states to implement Stage II gasoline vapor recovery systems at gasoline dispensing facilities in areas classified "Serious," "Severe," or "Extreme" for nonattainment of the ozone NAAQS. Comments must be received on or before 09/13/11. For further information: [Mr. Lynn Dail](#), Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail code C539-02, Research Triangle Park, NC 27711, (919) 541-2363.

**CO<sub>2</sub> EMISSIONS (07/20/11, [76 FR 43490](#))** EPA has deferred for a period of three years, the consideration of CO<sub>2</sub> emissions from bioenergy and other biogenic sources when determining whether a stationary source meets PSD and Title V applicability thresholds, including those for the application of Best Available Control Technology (BACT). Thus, during this three year period, biogenic CO<sub>2</sub> emissions are not required to be counted for applicability purposes under the PSD and Title V permitting programs. State, local, and tribal permitting authorities may adopt the deferral at their option, but for PSD and Title V permit programs implemented by EPA, the deferral is effective upon publication. This deferral applies only to CO<sub>2</sub> emissions, and does not affect non-GHG pollutants or other GHGs emitted from the combustion of biomass fuel. Also, this does not affect any other EPA programs that pertain to stationary sources, such as NSPS or the GHG Reporting Program. As of 07/01/11, PSD permitting requirements cover new construction projects that will emit at least 100,000 tpy of GHGs on a CO<sub>2</sub>e basis, even if they do not exceed permitting thresholds for any other pollutant. Modifications at existing facilities that increase GHG emissions by at least 75,000 tpy, and any amount on a mass basis, will be subject to permitting requirements, even if they do not significantly increase emissions of any other pollutant. Operating permit requirements will, for the first time, apply to sources based on GHG emissions even if they would not apply based on emissions of any other pollutant. Facilities that emit at least 100,000 tpy CO<sub>2</sub>e will be subject to Title V permitting requirements. For further information: Carole Cook; EPA, Climate Change Division; Washington, DC; (202) 343-9263, [GHGReportingRule@epa.gov](mailto:GHGReportingRule@epa.gov)

### Climate Change

**NATIONAL CLIMATE ASSESSMENT INPUT (07/13/11, [76 FR 41217](#))** NOAA is seeking expressions of interest from the public in providing technical inputs and/or offering assessment capacity on topics related to National Climate Assessment (NCA). Teams of experts and/or individuals in climate-related fields interested in providing input are encouraged to review the ["Potential Technical Inputs and Assessment Capacities"](#) and ["Suggested Best Practices"](#), and to prepare a short expression of interest. The full list of topics proposed for the report and [information](#) about the ongoing NCA process is available. A full draft of the NCA report is anticipated by mid-2012, with a planned release of the final report in mid-2013. For further information: [Emily Therese Cloyd](#), NCA Public Participation and Engagement Coordinator, US Global Change Research Program Office, Washington, DC, (202) 223-6262.



## Energy

**CHALLENGES OF BLENDED FUEL USE (06/03/11,)** GAO has released a [report](#) discussing challenges involved in using intermediate fuel blends such as 15% ethanol. GAO recommends, among other things, that EPA determine what additional research is needed on the effects of intermediate blends on UST systems. For further information: [Frank Rusco](#), GAO, (202) 512-3841.

**COMPATIBILITY OF UST SYSTEMS WITH BIOFUEL BLENDS (07/05/11, [76 FR 39095](#))** EPA is issuing final guidance on how owners and operators of USTs can demonstrate compliance with the Federal compatibility requirement for UST systems storing gasoline containing greater than 10% ethanol or diesel containing greater than 20% biodiesel. This is guidance, not a regulation. It applies in [States and territories that do not have an EPA-approved State UST program](#), to include KY and FL. For further information: [Andrea Barberly](#), (703) 603-7137.

**DOE AND DoD PARTNER TO INSTALL FUEL CELL BACKUP POWER UNITS (07/19/11, [DOE NEWS](#))** DOE and DoD are partnering to install 18 fuel cell backup power units at eight military installations, including Fort Bragg, NC. The Departments will test how the fuel cells perform in real world operations, identify any technical improvements manufacturers could make to enhance performance, and highlight the benefits of fuel cells for emergency backup power applications. These projects will accelerate the deployment of clean electricity technology at DoD facilities and provide valuable data that will help identify future research areas for fuel cells. The projects are being conducted under the [Memorandum of Understanding](#) signed between the two Departments in July 2010.

## Miscellaneous

**NAGPRA (07/05/11, [76 FR 39007](#))** An amendment to DOI regulations that implement the Native American Graves Protection and Repatriation Act (NAGPRA) removes the definition of "Indian tribe" because it is inconsistent with the statutory definition of that term. The rule became effective 07/05/11. Comments must be due 09/06/11. For further information: Dr. Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street, NW, 8th floor, Washington, DC 20005, (202) 354-1479.

**SPRING 2011 SEMIANNUAL REGULATORY AGENDA (07/07/11, [76 FR 40118](#))** The [Semiannual Regulatory Agenda](#) has been released for Spring 2011. The Agenda identifies regulatory and deregulatory activities planned by all federal agencies, and is updated every spring and fall. The Regulatory Plan, published only once a year as part of the fall edition of the Agenda, identifies the most significant regulatory actions that agencies expect to take in the coming year. EPA also maintains a [website](#) providing monthly updates about planned EPA regulations. For further information: [Phil Schwartz](#), 202-564-6564; [Caryn Muellerleile](#), 202-564-2855.

**BIOBASED PROCUREMENT (07/13/11, [76 FR 41179](#))** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR). The proposal requires contractors to report the biobased products purchased under service and construction contracts. This will allow Federal agencies to monitor compliance with the Federal preference for purchasing biobased products. Comments are due 09/12/11. For further information: Mr. William Clark, Procurement Analyst, (202) 219-1813.

**[NATIONAL STRATEGY FOR ELECTRONICS STEWARDSHIP \(07/20/11\)](#)** An interagency task force co-chaired by CEQ, EPA and GSA developed recommendations that focus on incentivizing design of greener electronics, ensuring the Federal government leads by example in acquiring, managing, reusing and recycling its electronics, increasing domestic recycling efforts, and reducing harm from US exports of electronic waste and improving safe handling of used electronics to developing countries.

**ADVANCED MANUFACTURING TECHNOLOGY CONSORTIA (07/22/11, [76 FR 43983](#))** The National Institute of Standards and Technology (NIST) invites input on how to best structure a new public-private partnership program, the Advanced Manufacturing Technology Consortia (AMTech) program, proposed in the NIST fiscal year 2012 budget. As envisioned, the AMTech program will provide Federal financial assistance to leverage existing or newly created industry-led consortia to develop precompetitive enabling manufacturing technologies. These consortia would develop roadmaps of critical long-term industrial manufacturing research needs, and issue subawards to fund research by universities, government laboratories and US businesses. This initiative will support research and development (R&D) in advanced manufacturing, with the goal of strengthening long-term US leadership in the development of critical technologies. This of potential interest to the Army because of pollution prevention benefits and life cycle sustainability improvements of certain advanced manufacturing. Comments are due by 09/20/11. For further information: [Barbara Lambis](#), 301-975-4447, or [Michael D. Walsh](#), 301-975-5545.

## Natural Resources

**GOLDEN-WINGED WARBLER (06/02/11, [76 FR 31920](#))** USFWS announced a 90-day finding on a petition to list the golden-winged warbler (*Vermivora chrysoptera*) as endangered or threatened under the Endangered Species Act of 1973. Based on review, USFWS finds that the petition presents substantial scientific or commercial information indicating that listing the golden-winged warbler may be warranted; thus is initiating a review of the status of the species to determine if listing is warranted. To ensure the status review is comprehensive, USFWS is requesting scientific and commercial data and other information regarding this species. Based on the status review, USFWS will issue a 12-month finding on the petition that will address whether the petitioned action is warranted. Information was due 08/01/11. For further information: Field Supervisor, 920-866-1725.

**MARINE MAMMAL INJURIES (07/18/11, [76 FR 42116](#))** NOAA published draft [policy](#) and [procedural guidance](#) for distinguishing serious from non-serious injuries of marine mammals. The guidance is targeted to commercial fishing and the types of injuries produced by fishing gear, but also includes general information for evaluating ship strike injuries of marine mammals. The guidance does not include any information on sonar. For further information: Melissa Andersen, NOAA Office of Protected Resources, 301-713-2322.

## Toxics

**RADIUM-226 (07/08/11, [76 FR 40282](#))** The Nuclear Regulatory Commission (NRC) is requesting comments before issuing a Regulatory Issue Summary (RIS) that clarifies when sources of radium-226 under military control are subject to NRC regulation as byproduct material. NRC has jurisdiction over discrete sources of radium-226 used by the military in medical or research activities, or in a manner similar to a commercial activity; however, NRC does not have jurisdiction over radium-226 used in military operations. NRC proposes that discrete sources of radium-226 under military control that would be subject to NRC regulation under the NARM Rule as byproduct material would include contamination in structures, soil, groundwater, sewers or storm drains, targets and associated contamination on firing ranges, and degraded devices and residue from radium paint shops buried in landfills. NRC's jurisdiction applies to confirmed (rather than suspected) radium-226 contamination. At National Priorities List (NPL) sites, NRC would rely on the CERCLA process and EPA oversight. At non-NPL sites, NRC would actively regulate. Items or equipment not currently used in traditional military operations and no longer intended for future use in traditional military operations would be regulated. Examples include vehicles, aircraft, or other equipment in storage that the military is no longer using, and that is not intended to be used in the future, and could be decontaminated by removing radium-226 instruments, dials and/or components in preparation for release of the equipment or vehicles to the public. This could also be items such as dials or gauges that the military decides are no longer intended for future use in traditional military operations. NRC intends to work with the military services and develop specific guidance. For further [information](#): [Robert L. Johnson](#); NRC, Office of Federal and State Materials and Environmental Management Programs; Washington, DC; 301-415-3152.

## Waste

**HAZARDOUS SECONDARY MATERIALS (07/22/11, [76 FR 44094](#))** In response to concerns raised by stakeholders about potential increases in risks to human health and the environment from hazardous secondary materials, EPA is proposing to revise the 2008 "Definition of Solid Waste" final rule. EPA makes the distinction that a hazardous secondary material (e.g., spent material, by-product, or sludge) is one that, when discarded, would be identified as hazardous waste under 40 CFR part 261. A hazardous recyclable material is a hazardous waste that is recycled. Unlike hazardous secondary materials, hazardous recyclable materials have clearly been discarded; therefore, are always solid wastes. EPA has proposed to replace the exclusion at 40 CFR 261.4(a)(24) and (25) for hazardous secondary materials transferred from the generator to other persons for the purpose of reclamation with an alternative Subtitle C regulation for hazardous recyclable materials. EPA believes that in most cases, hazardous secondary materials transferred to another party for reclamation are discarded and are best regulated (as hazardous waste) under RCRA Subtitle C. This would include manifesting and hazardous waste permits for storage, although generators may accumulate hazardous recyclable materials for up to a year without a RCRA permit if the generator makes advance arrangements for legitimate reclamation and documents those arrangements in a reclamation plan. EPA also requests comment on setting an upper limit on the amount of hazardous recyclable material accumulated at the generator site at any one time. Comments are due 09/20/11. For further information: [Marilyn Goode](#), EPA Office of Resource Conservation and Recovery, Washington, DC; (703) 308-8800.

**INCIDENT WASTE MANAGEMENT PLANNING AND RESPONSE TOOL (07/18/11, [76 FR 42124](#))** EPA released a draft Incident Waste Management Planning and Response Tool (IWMPRT) that provides critical information related to all aspects of solid, hazardous and radiological waste disposal in response to an incident of national significance. The tool provides context-sensitive information related to waste staging, packaging, transportation, disposal options and associated worker

protections. IWMPRT was developed to partly satisfy the requirements under Homeland Security Presidential Directive (HSPD-10), "Bio-defense in the 21st Century. IWMPRT provides a waste quantity estimation tool and information on the: types and quantities of materials and contaminants involved, and unique issues or challenges faced with ensuring public and worker safety in safe and efficient removal, transport and disposal of debris from an incident. For further information: Dr. Paul Lemieux, 919-541-0962.

## State Laws and Rulemaking

### Alabama

*Legislative Session Convened 01/04/11; Adjourned 06/09/11*

*Effective Dates of Legislation: Upon enactment or as provided in the Act.*



#### Proposed Rules

**LICENSURE FAILURE TO RENEW FEES (628-X-4- .02)** The Alabama Onsite Wastewater Board has proposed amendment to Section 6 of 628-X-4-.02, which establishes license fees. Amendment would change the failure to renew license end date provision to April 15 through December 31 of each calendar year. Section 7 that provides for the failure to renew a license provision from April 16 thru December 31 of each calendar year would be removed, and the subsequent sections renumbered accordingly. This rule was proposed 06/30/11. Comments were due 08/04/11.

[Proposed Rule](#)

Contact: Mike Talley, 334-269-6800; [Melissa.hines@aowb.alabama.gov](mailto:Melissa.hines@aowb.alabama.gov)

**CLASS VI INJECTION WELLS (335-6-8-.01, -.02, -.05, -.07, -.08, -.10 - .30)** ADEM proposes to revise the Division 6 Code to include requirements for Class VI injection wells for geologic sequestration of carbon dioxide. Proposed additions and amendments are consistent with Federal regulations for Class VI wells. A public hearing was held 07/11/11.

[Proposed Rules](#)

### Florida

*Legislative Session Convened 03/08/11; Adjourned 05/06/11*

*Effective Dates of Legislation: 60th day after adjournment or as provided in the Act.*



#### Final Rules

**TITLE V AIR PERMITS (FAC 62-204, 210, 212, 213)** FLDEP amended FAC 62-204 to remove or revise obsolete provisions related to AAQS and area designations. Amendment implements new NAAQS and prepares for expected new federally designated nonattainment areas. Changes remove excess or redundant language, delete or revise several definitions, simplify area designation rule sections to align with federal rule language, and clarify various provisions. Amendments to Chapter 62-210 213, F.A.C. transfer general permits for six source categories from FLDEP's Title V air general permit program into the non-Title V air general permit program: 62-213.300 (1)(a): Perchloroethylene Dry Cleaning Facilities; 62-213.300(1)(b): Ethylene Oxide Sterilization Facilities; 62-213.300(1)(c): Halogenated Solvent Degreasing Facilities; and 62-213.300(1)(d): Chromium Electroplating and Anodizing Facilities. Amendments also revise several definitions, expand permitting exemption criteria, clarify when air construction and operation permits are required, clarify general permit rule language, and streamline general permit registration forms. Amendments to Chapter 62-210 212 F.A.C. incorporate the effective elements of EPA's 12/31/02 NSR reform rule into Florida's nonattainment area preconstruction review program. EPA requires FLDEP to incorporate these concepts into State rules. It is to the benefit of regulated industries in pending nonattainment areas of the State for FLDEP to do so in advance of those areas being designated. Amendments clarify related topics and definitions, and are consistent with Federal requirements. They update references to PM in the preconstruction review program from PM10 to PM2.5. A rule development workshop was held 10/20/10. The proposed rule was published 04/08/11 (Vol. 37, Issue 14, Florida Administrative Weekly 04/08/11 pp.872-887). The deadline for public comments was 04/29/11, and a public hearing was held on 05/04/11. The rules were adopted on 06/09/11 and became effective on 06/29/11.

[Notice of Proposed Rulemaking](#)

[FLDEP Summary of Proposed Amendments](#)

Contact: Terri Long, (850) 921-9556



## *Proposed Rules*

**STANDARDS FOR ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS (FAC, CHAPTER 64E-6)** The FL Department of Health (FLDOH) proposed amendments to standards for onsite sewage treatment and disposal systems. The rulemaking develops rules to implement provisions of Chapter 10-205, Laws of Florida (SB 550), which requires FLDOH to administer an onsite sewage treatment and disposal system evaluation and assessment program. Proposed rules address: application for a System Construction Permit; location and installation of onsite sewage treatment and disposal systems; site evaluation criteria; system size determinations; alternative systems; septage and food establishment sludge; portable restrooms and portable or stationary holding tanks; abandonment of systems standards for construction, operation and maintenance of aerobic treatment units; construction materials and standards for treatment receptacles; construction standards for drainfield systems; permitting and construction of repairs; additive use; Department of Agriculture Soil Textural Classification System; system location, design and maintenance criteria; cesspit and undocumented system replacement and interim system use; coordinated permitting; requirements for registration; master septic tank contractors; issuance of registration certificates and renewal; standards of practice and disciplinary guidelines; certification of partnerships and corporation; applications for innovative system permits and reclassification and system construction permits, location, installation, monitoring and Fees. FLDOH held a public workshop 06/04/10 to discuss permitting and approval standards of onsite sewage treatment systems that provide treatment other than a septic tank, such as performance based treatment systems, aerobic treatment units and innovative systems. The Technical Review and Advisory Panel met 07/15/10 and 09/23/10. Public workshops were held October 12, 14, 18 and 21, 10. A public meeting was held in December 2010. DOH has public meetings scheduled through December 2011.

[Notice of Public Workshop](#)

[Notice of Rule Development](#)

Contact: Gerald Briggs, (850) 245-4250

**COASTAL CONSTRUCTION PERMITS (FAC 62B-41.002, .003, .005)** The FLDEP Division of Beaches and Shores has proposed amendments to existing rules to address comments from the Joint Administrative Procedures Committee. Amendments would refine criteria for coastal construction permits for coastal armoring below the mean high water line, inlet construction and maintenance, and beach restoration and nourishment. The Notice of Rulemaking was published 09/03/10. Comments were Received and answered. A public hearing was held 10/05/10, and a notice of change was filed 11/24/10; published 01/07/11. A change was made to FAC 62B-41.005 (17): If the proposed coastal construction is reasonably likely to have adverse impacts to the coastal system, then the applicant shall revise the project design to avoid or minimize those impacts to the greatest extent practicable. After all practicable revisions have been made to avoid and minimize impacts; any remaining adverse impacts shall be offset by a mitigation plan that has been proposed by the applicant.

[Proposed Rule](#)

[09/13/10 JAPC Letter to DEP](#)

[09/24/10 DEP Letter to JAPC](#)

[Notice of Change](#)

[Second Notice of Change](#)

Contact: [Contact West Gregory](#), 850-245-2542

**GENERIC PERMIT FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES (FAC 62-621.300)** FLDEP is revising subsection 62-621.300(1), F.A.C., Generic Permit for Discharges From Petroleum Contaminated Sites and subsection 62-621.300(2), F.A.C., Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity. The two generic permits authorize discharge of ground water to surface water from specific types of contaminated and non-contaminated sites. They are used for construction related projects including removal and replacement of USTs, long - and short-term petroleum site cleanup activities, installation of underground utilities (water, sewer electrical, communications lines), and construction of large buildings with significant below-grade foundations and basements. A workshop was held on 11/08/10.

[Notice of Development of Rulemaking](#)

Contact: Shirley Shields, (850) 245-8589

**SURFACE WATER QUALITY STANDARDS (FAC 62-302.200, .300, .400, .500, .520, .530, .540, .700, .800)** FLDEP is held two workshops to explore options with the public on Florida nutrient standards and other relevant provisions of water quality standards. The workshops were used to discuss concepts and gain public input on ideas for a State rule. Information gained will be used as part of the traditional State process of collaborative rulemaking. Note that FLDEP previously opened up Chapter 62-302, F.A.C., for establishment of nutrient standards, and then suspended that rulemaking. The workshops were held 06/14/11 and 06/16/11. Contact: [Eric Shaw](#), 850-245-8429  
Rulemaking: Vol. 37, Issue 20, Florida Administrative Weekly 05/20/2011 pp.1314-1315

**AIR PERMITTING DEFINITIONS (FAC 62-210.200, FAC 62-212.400)** FLDEP is proposing to amend two definitions in its air permitting rules to exclude ethanol fuel production facilities from the definition of "chemical process plant," thereby raising the emission threshold for applicability of the State's major source permitting rules for such facilities from 100 tons per year (TPY) of any regulated air pollutant to 250 TPY. Some ethanol fuel production facilities would move from being considered a "chemical process plant" for purposes of qualifying for an exemption from the State's PSD air permitting rules. A rule development workshop was held 07/27/11. Contact: [Ms Lynn Searce](#), 850-717-9025  
[Proposed Rule](#)

## Georgia

*Legislative Session Convened 01/10/11; Adjourned 04/14/11*

*Effective Dates of Legislation: Generally, July 1st or as provided in the Act.*



### Proposed Rules

**WASTEWATER DISCHARGE INTO POTWS (391-3-6-.08, -.09)** GAEPD has proposed amendments to wastewater pretreatment permits for discharge of any pollutant into a publicly owned treatment works (POTWs) and then into the waters of the state. It would amend procedures and practices followed in development and submission of POTW pretreatment programs for GAEPD review, approval or denial, as well as public notification methods. The primary purpose of the proposed amendments is to comply with federal General Pretreatment Regulations for Existing and New Sources of Pollution, which establish responsibilities of government and industry to implement National Pretreatment Standards. Other proposed amendments would correct typographical errors, numerical and alphabetical inconsistencies, and clarify language and definitions, as required by EPA. The rule was proposed 08/05/09. Changes were proposed 06/23/10, and comments were due 07/23/10. Additional changes were proposed 09/22/10. A public hearing was held on 10/27/10, and comments were due 11/05/10.

[Proposed Rule and Synopsis of Proposed Amendments](#)

[Public Meeting Notice](#)

Contact: [Jamila Norman](#), 404-675-1687

**SPILL REPORTING (GAC 391-3-6-.05)** GAEPD proposed amendments that would modify the definition of "Major Spills," revise reporting requirements for non-major spills and amend the monitoring program protocol. The rule was proposed 09/08/10, and a public hearing was held 10/15/10. Comments were due 10/29/10. Substantial comments were received; GAEPD is reconciling them. GAEPD will then take the rule before the Board.

[Notice of Proposed Rulemaking](#)

[Proposed Rule](#)

Contact: Marzieh Shahbazaz, (404) 362-2680

**SURFACE WATER WITHDRAWAL PERMITS (GAC 391-3-6-.07)** GADNR has proposed to amend procedures followed when obtaining a permit to withdraw, divert or impound surface waters of the state. Amendments would set forth information required on a permit application and outline procedures for granting, denying, revoking and modifying such permits. A public hearing was held 01/05/11, and comments were due 01/10/11.

[Notice of Proposed Rulemaking, Synopsis of Proposed Amendments, Proposed Amendments](#)

Contact: [Nap Caldwell](#), 404-463-4348

**NON-STORMWATER GENERAL PERMITS (GAC 391-3-6-.15)** GADNR has proposed amendments that would provide the GADNR Director discretion to allow coverage under a non-storm water general permit without submittal of a Notice of Intent (NOI), where requiring such notice would be inappropriate and federal regulations do not require such notice. The proposed rule would also address general and individual permit requirements, coverage area of a general permit, authorization to discharge, the degree of waste treatment required, notice and public participation, prohibited discharges, modification, revocation, reissuance and termination of permits. A public hearing was held 01/18/11, and comments were due 01/31/11.

[Notice of Proposed Rulemaking, Synopsis of Proposed Amendments, Proposed Rule Text](#)

Contact: [Nap Caldwell](#), 404-463-4348

**PSD (GAC 391-3-1-.02(7), -.03(8))** GAEPD is proposing to amend Rule 391-3-1-.02(7), "Prevention of Significant Deterioration of Air Quality," to specify precursors for ozone and PM<sub>2.5</sub>. The definition of "regulated NSR pollutant" is added at subparagraph 391-3-1-.02(7)(a)2.(ix). Subparagraph (ix)(I)I specifies that VOCs and NO<sub>x</sub> are precursors to ozone. Subparagraph (ix)(I)II specifies that sulfur dioxide is a precursor to PM<sub>2.5</sub>. Both subparagraphs are consistent

with the Federal rule at 40 CFR 52.21. Subparagraph (ix)(I)III specifies that NOX is not a precursor to PM2.5; however, NOX is presumed to be a precursor to PM2.5 in the Federal rule unless a State demonstrates to EPA NOX emissions are not a significant contributor to ambient PM2.5 concentrations. Thus, Subparagraph (ix)(I)III specifies that exclusion of NOX as a precursor to PM2.5 becomes effective after EPA approves the revision to Georgia's SIP which incorporates the change. Subparagraphs (ix)(II), (III), (IV), (V) and (VI) regarding pollutants subject to section 111 standards, Class I and Class II Substances, any pollutant otherwise subject to regulation under the CAA, hazardous air pollutants listed in section 112, and condensable particulate matter, respectfully, are consistent with the Federal definition of Regulated NSR pollutant. Rule 391-3-1-.03(8), Permit Requirements, is being amended; nonattainment NSR requirements for PM2.5 are added to the rule. The permitting requirement for sources located in 25 counties designated as contributing to ozone levels in the Atlanta ozone nonattainment area is clarified. Other revisions are made to make the rule consistent with Federal requirements. Subparagraph 391-3-1-.03(8)(c)16 is added to specify the nonattainment NSR requirements for Georgia's existing PM2.5 nonattainment areas (Atlanta PM2.5 nonattainment area, Macon PM2.5 nonattainment area, Floyd County PM2.5 nonattainment area and Chapter 391-3-1 Rules for Air Quality Control Georgia's portion of the Chattanooga PM2.5 nonattainment area). Subparagraph 16.(i) specifies the major source threshold at 100 tons per year. Subparagraph 16.(ii) establishes modification thresholds. Subparagraph 16.(iii) sets the offset ratio at 1 to 1. Subparagraph 16.(iv) specifies that sulfur dioxide is a precursor to PM2.5. Subparagraph 16.(v) states that NOX is not a precursor to PM2.5. However, the NO<sub>x</sub> provision does not apply until EPA approves it into Georgia's SIP. Subparagraph 16.(vi) specifies requirements for condensable PM. Subparagraph 16.(vii) defines the partial-county areas that are part of the designated nonattainment areas. Language is added to Subparagraph 391-3-1-.03(8)(e)1 to clarify that the permitting requirements of 391-3-1-.03(8)(c) only apply to electric generating units in the 25 counties specified. Modifications to Subparagraphs 391-3-1-.03(8)(g)1.(iii), (g)2.(i), (g)5.(i), and (g)6.(i) are made to reflect the addition of Subparagraph (8)(c)16. Subparagraph (8)(g)1 (iii)(III) is removed to make the rule consistent with Federal requirements. The rule was proposed 03/15/11. A public hearing was held 04/11/11, and comments were due 05/09/11.

[Notice of Proposed Amendments](#)

[Synopsis of Proposed Amendments](#)

[Proposed Rule](#)

Contact: [Chief](#), Air Protection Branch

**SYNTHETIC MINOR AIR QUALITY PERMITS (GAC 391-3-1-.01, 02, 03. RULE 391-3-1-.01(cccc))** The definition of "Synthetic minor permit," is amended to specify that synthetic minor permits may be federally enforceable or enforceable as a practical matter. For a limit to be "enforceable as a practical matter," the permitting agency must be able to determine that the source is complying with the permit limit. This often requires recordkeeping, monitoring and reporting requirements that verify self-imposed limitations on emissions. For a limit to be "federally enforceable," the limit must also go through public notice and comment. Rule 391-3-1-.01(nnnn), the definition of "Procedures for Testing and Monitoring Sources of Air Pollutants," is amended to reference the most recent revision of the manual. Rule 391-3-1-.02 (4), "Ambient Air Standards," is revised to update the AAQS for SO<sub>2</sub> and NO<sub>2</sub> to be consistent with Federal standards. Rule 391-3-1-.02, Subparagraph (9)b, "Emission Standards for Hazardous Air Pollutants," is updated to include the latest amendment dates of rules incorporated into the Georgia Rules by reference, and to make minor changes to ensure consistency between State and Federal programs. Rule 391-3-1-.03(11), "Permit by Rule," is amended to revise applicability provisions of each of 11 permit by rule standards from sources without Federally enforceable permit conditions to sources without conditions "that are federally enforceable or enforceable as a practical matter." The rule was proposed 03/15/11 with a comment deadline of 05/09/11. A public hearing was held 04/11/11.

[Notice of Proposed Amendments](#)

[Synopsis of Proposed Amendments](#)

[Proposed Rule](#)

[Summary of Procedures for Testing and Monitoring Sources of Air Pollutants](#)

Contact: [Chief](#), Air Protection Branch

**STANDARDS FOR PETROLEUM PRODUCTS (GAC 40-20-1-.01, -.12)** The Department of Agriculture has proposed to update Rule 40-20-1-.01 to conform to ASTM International standard specifications, EPA regulations and practice. The gasoline sulfur specifications in Rule 40-20-1-.01(a)(1) are revised to 95 ppm, which is also the downstream gasoline sulfur specification in EPA regulation found at 40 CFR 80.210. Lead specifications in Rule 40-20-1-.01(a)(4) and minimum octane ratings for leaded gasoline in Rule 40-20-2-.01(a)(7)(i) are deleted as they are no longer necessary because there leaded gasoline is no longer available for general consumption. The minimum temperature specification for 50% distillation of non-oxygenated Class D-4 gasoline in Rule 40-20-1-.01(a)(5)(i) is changed to 77°C/170° F to conform to specifications in the ASTM D4814 standard. Gasoline from origin to retail not blended with ethanol may meet a minimum 50% evaporated distillation temperature of 66°F for volatility class D-4 only. Gasoline meeting these limits is not suitable for blending with ethanol. Rule 40-20-2-.01(b)(2) is amended to require denatured ethanol used for gasoline blending meet the most recent version of specifications specified in ASTM D4806 standard. A reference to reformulated gasoline

("RFG") in Rule 40-20-2-.01(b)(5) is removed. EPA regulations no longer require minimum oxygen content for RFG. Kinematic viscosity specifications for Fuel Oils in Rule 40-20-2-.01(d)(1)(iv), (d)(2)(iv), (d)(3)(ii), and (d)(4)(ii) are changed to comply with specifications in ASTM D396, the Standard Specifications for Fuel Oils. A public hearing has not been scheduled. The deadline for public comment was 05/27/11.

[Notice of proposed rulemaking](#)

[Proposed rules: 40-20-1-01, 40-20-1-12](#)

Contact: Rich Lewis, 404-656-3605

**INDUSTRIAL STORMWATER DISCHARGES (GAR050000)** The 2006 NPDES General Permit No. GAR000000 for Storm Water Discharges Associated with Industrial Activity expired 07/31/11. GAEPD is revising the existing permit for re-issuance in August 2011. The 2006 NPDES General Permit No. GAR000000 (being replaced by GAR050000) continues in force and effect until the new general permit is issued. Any permittee who submitted a properly-completed Notice of Intent (NOI), Version 2006 or Version 2010, to obtain coverage under the current permit prior to the expiration date will automatically remain covered until the new permit is issued. Existing permittees will have up to 30 days after the effective date of the new permit to submit an NOI (Version 2011 only) to obtain coverage under the new permit. A public meeting was held and comments were due 08/01/11.

[Public Notice](#)

Contact: Frances Carpenter, 404-675-1605.

## Kentucky

*Legislative Session Convened 01/04/11; Adjourned 03/09/11*

*Effective Dates of Legislation: 90 days after adjournment or as otherwise provided in the Act.*



### Final Rules

**REVIEW OF NEWS SOURCES (401 KAR 51:052)** This rule establishes requirements for construction or modification of stationary sources within, or impacting upon, areas where NAAQS have not been attained. The KEEC Division of Air Quality has adopted amendment to 401 KAR 51:052 that allows for use of emissions offset credits for new permit applications received after source shutdowns and curtailments in production or operating hours have occurred. The previous regulation allowed for emissions offset credits if a permit application was received before a source shutdown or curtailment. In meeting offset requirements, amendment also provides clarification regarding ratios of actual emissions reductions to the emissions increases. The rule was proposed 03/14/11. A public hearing was held 04/26/11, and comments were due 05/02/11. The rule was amended after comments on 06/09/11; published 07/01/11.

[Public Notice](#)

[Amended After Comments](#)

Contact: [Laura Lund](#)

### Proposed Rules

**UST SYSTEMS (401 KAR CHAPTER 42)** This rulemaking clarifies requirements for UST systems, to include: release response, site characterization and corrective action; temporary closure and reporting and recordkeeping requirements; classification and screening levels; financial responsibility for corrective action and compensation of third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases. It establishes criteria for ranking facilities and revises procedures to administer accounts of the Petroleum Storage Tank Environmental Assurance Fund; amends rules concerning laboratory certification; promulgates a new rule that establishes procedures by which the cabinet may invoke a delivery prohibition; and repeals rules concerning contractor certification for individuals who perform corrective action. Rules were proposed 05/01/11. A public hearing was held 05/24/11, and comments were due 05/31/11.

[Proposed Rules](#)

Contact: [Cassandra Jobe](#) (502) 564-6716

**PETROLEUM CONTAMINATED SOIL TREATMENT FACILITIES (401 KAR 47:205, 47:207, 48:205-208)** This rulemaking implements new rules for petroleum contaminated soil treatment facilities. The rulemaking includes provisions to establish application requirements; permit issuance and public information procedures; procedures for excluding receipt of wastes other than petroleum contaminated soil, petroleum contaminated soil characterization, treatment standards and disposition of treated soil, and recordkeeping and reporting requirements; biopile liner geosynthetic quality assurance and quality control testing requirements. The rules were proposed 05/01/11. A public hearing was held 05/23/11, and



comments were due 05/31/11.

[Proposed Rules](#)

Contact: [Kelli Reynolds](#) (502) 564-6716

**BOARD ON ELECTRIC GENERATION AND TRANSMISSION SITING (807 KAR 5:100, 5:110)** KEEC has proposed amendments to rules concerning Board proceedings and permit application requirements. Amendment establishes procedures related to applications, filings, notice requirements, hearings and confidential material under the jurisdiction of the Kentucky State Board on Electric Generation and Transmission Siting; adds language regarding carbon dioxide pipelines; establishes the initial filing fee for an application with the Siting Board for a construction certificate for a carbon dioxide transmission pipeline. Rules were proposed 06/14/11, and a public hearing was held 07/25/11. Comments were due 07/31/11.

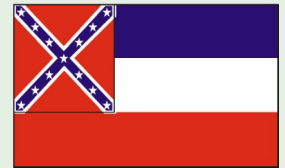
[Proposed Rules](#)

Contact: Quang Nguyen, (502) 564-3940

## Mississippi

*Legislative Session Convened 01/04/11; Adjourned 04/07/11*

*Effective Dates of Legislation: 60 days after passage, unless otherwise provided in the Act.*



### Proposed Rules

**USTs** This proposed rule amendment adds training requirements for UST compliance managers and operations clerks. It requires owners and operators to maintain records regarding such training and report those trained as Compliance Managers. The rule was proposed on 05/03/11, and comments were due 05/28/11. A Public Hearing was held 06/02/11.

[Proposed Rule](#)

Contact: [Kevin Henderson](#) (601) 961-5283

**WATER QUALITY CRITERIA (WPC-2)** This proposed amendment adds an antidegradation implementation policy to the regulations. The rule was proposed 05/10/11, and comments were due 06/04/11. A Public Hearing will be held 06/14/11.

[Proposed Rule](#)

Contact: [Ted Lampton](#), (601) 961-3573

**HAZARDOUS WASTE MANAGEMENT (HW-1)** This proposed rule will revise the definition of solid waste to exclude certain hazardous secondary materials; add a new exclusion for comparable fuels and synthesis gas; withdraw the conditional exclusion for emission comparable fuels; remove saccharin and its salts from the lists of hazardous constituents and commercial chemical products; and take direct action for six technical corrections to an alternative set of hazardous waste generator requirements. The rule was proposed 06/09/11, and comments were due 07/04/11. A public hearing is scheduled for 7/27/11.

[Proposed Rule](#)

Contact: [Ted Lampton](#), (601) 961-3573

**CONTROL OF RADIATION (SECTION 400)** The MS Department of Health (DOH) has proposed amendments to radiation control regulations regarding the posting of airborne radioactivity areas and areas in which licensed material is used or stored. It would also amend regulations concerning disposal of by-product material by permitting certain such material to be disposed of in accordance with 10 CFR Part 61, even though it is not defined as low-level radioactive waste. Deadline for public comments was 07/09/11.

[Proposed Rule](#)

Contact: [BJ Smith](#), (601) 987-6893.

**WATER QUALITY ANALYSIS FEE** MS DOH has proposed rulemaking that would set the water quality analysis fee assessed to Mississippi Public Water Supplies to \$2.80 per connection. The fee would cover costs for personnel and equipment needed to meet the monitoring requirements established under the Federal Safe Drinking Water Act. The rule was proposed 07/05/11, and comments were due 07/30/11.

[Proposed Rule](#)

Contact: [Romelle F Britton](#), (601) 576-7518

# North Carolina

2011 Legislative Long Session began 01/19/11; ends TBD~08/01/11  
Effective Dates of Legislation: 60 days after adjournment unless directed otherwise in the bill.



## Legislation

**NC H 45: INDUSTRIAL SITE CLEANUP AND RISK REMEDIATION.** This bill authorizes NCDENR to approve the remediation of contaminated industrial sites based on site-specific remediation standards in certain circumstances in order to expedite the cleanup of former industrial sites. The bill excludes contaminated industrial sites subject the Leaking Petroleum Underground Storage Tank Cleanup program. It also limits application to sites where a discharge, spill, or release of contamination has been reported to NCDENR prior to 03/01/11. The bill requires a fee to the Remediation Fund in an amount equal to \$4,500 for each acre or portion of an acre of contamination up to a maximum of \$125,000. **Status: Enacted 2011-186**

**REEO-S NOTE:** Voluntary program that does not directly affect DoD.

**NC H 119: PROHIBITION ON DISPOSAL OF CERTAIN BEVERAGE CONTAINERS AND ELECTRONIC WASTE.** The bill removes the prohibition on landfill disposal or incineration of beverage containers required to be recycled; adds a prohibition on landfill disposal or incineration of computer equipment or televisions; and prohibits the disposal of fluorescent lights and thermostats that contain mercury in an unlined landfill. The bill also directs the Commission and the Department to incorporate storm water capture and reuse standards and best management practices into the implementation of the storm water run-off rules. **Status: Enacted 2011-394**

**REEO-S NOTE:** No new significant requirements anticipated; addresses beverage container disposal and seeks to encourage gray water use.

**NC S 181: PETROLEUM USTs AND PUBLIC WATER.** Provides that no cleanup will be required for any discharge or release from a petroleum underground storage tank when a public water system is available to those affected by the discharge or release and no surface waters are located within one thousand feet of the discharge or release. **Status: Passed Senate; In House committee**

**REEO-S NOTE:** DoD may not be able to take advantage of its provisions because it would likely be considered less stringent than Federal requirements.

**NC S 231: INTERCONNECTION OF PUBLIC WATER SYSTEMS.** Requires the interconnection of public water systems or wastewater systems to regional systems when necessary to promote public health, protect the environment, and ensure compliance with drinking water rules and to require that an analysis of reasonable alternatives be done before constructing or altering a public water system. **Status: Passed Senate; In House committee**

**NC S 279: CLARIFY THAT WOOD IS A RENEWABLE ENERGY RESOURCE.** Amends the definition of Renewable Energy Resource that pertains to the renewable energy and energy efficiency portfolio standard (reps) to clarify that wood is a renewable energy resource and that wood need not be a waste product to qualify as a renewable energy resource. **Status: Passed Senate; In House committee**

**NC S 308: PROHIBIT STATE REGULATION OF GHG.** This bill prohibits State agencies from adopting, implementing, or enforcing a rule that regulates greenhouse gas emissions or limits human activity for the purpose of reducing greenhouse gas emissions if the rule is not required by a federal law or regulation or is more stringent than a corresponding Federal regulation or law. **Status: Passed Senate; In House committee**

**REEO-S NOTE:** Has momentum and follows the lead of other states in expressing distain of EPA's efforts in this matter. EPA's reaction should prove interesting if passed.

**NC H 585: NC ENERGY INDEPENDENCE SEARCH COMMITTEE.** Establishes the North Carolina energy independence search committee to contact and invite major energy companies to explore in North Carolina for natural gas, oil, wind, or other energy sources capable of large scale energy production for the purpose of North Carolina becoming more energy independent. **Status: Passed House; Senate committee reported favorably**

**REEO-S NOTE:** Should this bill become law, activities of the committee should be closely tracked.

**NC H 609: PROMOTE WATER SUPPLY DEVELOPMENT.** The bill would require the NCDENR to cooperate with units of local government in the identification of water supply needs and appropriate water supply sources and water storage projects

to meet those needs. It also requires the State to cooperate with local governments to identify potential water supply sources and plan for construction of water supply storage to satisfy the long term water supply needs identified in local water supply plans. The bill also provides for establishment of a regional water supply planning organization. **Status: Enacted 2011-374**

**REEO-S NOTE:** This measure could result in land use changes around installations.

**NC S 514: NUTRIENT SENSITIVE WATERS.** This measure provides that a nutrient management plan shall not be developed, adopted, or implemented for surface waters of the state unless those waters have first been classified as nutrient sensitive waters. **Status: Passed Senate; In House committee**

**REEO-S NOTE:** These bills may be in related to disputes between state agencies and EPA over nutrient regulation. Worst case hypothetical: DoD having to comply with two conflicting water quality programs (State and EPA). The bill should be tracked to see if there are any second or third order effects.

**NC H 661: CDL/HAZMAT ENDORSEMENT EXPIRATION.** This bill requires the Division of Motor Vehicles to make a commercial drivers license and a hazardous materials endorsement expire at the same time. **Status: Enacted 2011-228**

**NC S 428: STUDY CONSOLIDATED ENVIRONMENTAL COMMISSION.** This bill directs the Environmental Review Commission to study the desirability and the feasibility of consolidating the state's environmental policy-making, rule-making, and quasi-judicial functions into one comprehensive full-time Environmental Commission. **Status: Passed Senate; In House committee**

**REEO-S NOTE:** FYI for those who have dealings with the commission.

**NC S 491: SEDIMENTATION POLLUTION CONTROL ACT EXEMPTION.** This bill specifies that the agricultural use exemption from Sedimentation Pollution Control Act permitting requirements continues to apply when the land is transferred into a wetlands restoration program or other water quality, water resources, or wildlife habitat enhancement program. **Status: Passed Senate; In House committee**

**REEO-S NOTE:** Could facilitate opportunities to utilize installation or surrounding agricultural land for mitigation.

**NC S 628: WATER QUALITY PERMITTING.** Provides that the Environmental Management Commission shall deny a water quality permit or certification when the applicant knowingly falsifies information or fails to disclose relevant information in the application or supporting information; provides that the Department of Environment and Natural Resources shall conduct an environmental compliance review of an applicant for a water quality permit or certification prior to issuance of a permit or certification. **Status: Passed Senate; In House committee**

**REEO-S NOTE:** An apparent attempt to crack down on egregious violators. This measure should not impact DoD.

**NC S 709: ENERGY JOBS ACT.** Legislative intent to spur energy production in North Carolina so as to develop a secure, stable, and predictable energy supply to facilitate economic growth, job creation, and expansion of business and industry opportunities and to assign future revenue from energy exploration, development, and production of energy resources in order to protect and preserve the state's natural resources, cultural heritage, and quality of life. **Status: Vetoes (Governor's veto); Veto Overridden in Senate; awaiting House action.**

**REEO-S NOTE:** If passed, the legislation could encourage significant growth in the state's energy sector. Downside-DoD could face increasing encroachment pressures from oil and gas exploration and renewable energy generation development. Upside: could also facilitate enhanced collaboration on mutually beneficial energy endeavors.

**NC S 781: AGENCY RULEMAKING.** This measure relates to agency regulations; sets forth certain requirements for agencies in the rule-making process; requires that rules be written in a clear and unambiguous manner; requires certain information to be maintained in a searchable database; establishes the Rules Modification and Improvement Program to conduct an annual review of existing rules; limits certain environmental rules; relates to environmental document requirements, Title V permits, and certain waste discharge permits. **Status: Vetoes (Governor's veto); Veto Overridden and Enacted 2011-398.**

**REEO-S note:** Primarily housekeeping measures. Only notable provision is at §150B-19.3, which states "An agency authorized to implement and enforce State and federal environmental laws may not adopt a rule for the protection of the environment or natural resources that imposes a more restrictive standard, limitation, or requirement than those imposed by federal law or rule..." This could be considered positive if the State's requirements were no more stringent than Federal rules.

## *Proposed Rules*

**STORMWATER PROVISIONS IN CONSTRUCTION GENERAL PERMIT (NCG01000)** The existing NCG01 expired 08/02/11.

The pre-publication version of the Draft Permit was sent to EPA and the public 04/12/11. It was revised 05/13/11. The Draft Permit became effective 08/02/11.

[Draft General Permit](#)

Contact: Boyd DeVane, 919-807-6373

**BOILERS AND PRESSURE VESSELS (13 NCAC 13 .0101, .0103, .0202, .0203, .0204, .0208, .0209, .0211, .0212, .0214, .0301, .0401, .0404, .0406, .0408, .0409, .0410, .0411, .0412)** NCDENR is proposing to amend rules regarding boilers and pressure vessels, including revised incorporated standards, inspector qualifications, inspection standards and safety standards. A public hearing was held 03/31/11. Comments were due 05/16/11.

[Proposed Rule \(page 2159\)](#)

Contact: Erin T Gould, 919-733-7885

**AIR QUALITY: SO<sub>2</sub>, NO<sub>2</sub> (15A NCAC 02D .0402, .0407)** NCDENR is proposing amendments to 15A NCAC 02D .0402, Sulfur Oxides and 15A NCAC 02D .0407, Nitrogen Dioxide, to incorporate the revised primary NAAQS for sulfur dioxide (SO<sub>2</sub>) and nitrogen dioxide (NO<sub>2</sub>), promulgated by EPA into the state air quality rules. On 06/02/10, EPA strengthened the primary NAAQS for SO<sub>2</sub> by replacing the 24-hour and annual standard with a new 1-hour SO<sub>2</sub> standard at a level of 75 ppb, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA is revoking the two existing primary standards of 140 ppb evaluated over 24-hours, and 30 ppb annual standard evaluated over an entire year because there is little health evidence to suggest an association between long-term exposure to SO<sub>2</sub> and health effects. The new 1-hour standard applies only to the primary standard set to protect public health, especially for children, the elderly, and people with asthma. EPA also strengthened the health-based NAAQS for NO<sub>2</sub>. EPA is supplementing the existing annual standard for NO<sub>2</sub> of 53 ppb by establishing a new short-term standard based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. EPA is setting the level of this new standard at 100 ppb. EPA is making changes in data handling conventions for NO<sub>2</sub> by adding provisions for this new 1-hour primary standard that will protect public health, including the health of sensitive populations (people with asthma, children, and elderly). EPA is retaining, with no change, the current annual average NO<sub>2</sub> standard of 53 ppb. A public hearing was held 05/04/11. Comments were due 05/31/11.

[Notice of Public Hearing](#)

[Proposed Rules](#)

## South Carolina

*Legislative Session Convened 01/11/11; Adjourned 06/02/11*

*Effective Dates of Legislation: 20th day after Governor signs or as provided in the Act.*



### Proposed Rules

**WATER CLASSIFICATIONS AND STANDARDS (R. 61-68, -69)** This proposed rule clarifies implementation details regarding the freshwater bacteriological indicator for NPDES permits, ambient water quality assessment and Total Maximum Daily Load (TMDL) development. The proposed rule clarifies the E. Coli bacteriological indicator for protection of recreational uses in Class SA, Class SB, and Shellfish Harvesting waters and, where appropriate, clarifies implementation details for NPDES permits, ambient water quality assessment and TMDL development. The rule was proposed 04/22/11, and comments were due 05/23/11. A Public Hearing has not been scheduled.

[Proposed Rule](#)

Contact: [Gina Kirkland](#) (803) 898-4355

**HAZARDOUS WASTE (R.61-79)** SCDHEC proposes to amend R.61-79, Hazardous Waste Management Regulations. South Carolina intends to adopt two final Federal amendments published between 07/01/09 and 06/30/10, and to correct errors and omissions in previously adopted regulations. The first rule, the Organization for Economic Cooperation and Development (OECD), Requirements; Export Shipments of Spent Lead-Acid Batteries, implements recent changes to agreements concerning transboundary movement of hazardous waste among countries belonging to the OECD. It establishes notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, and specifies requirements for exception reports concerning hazardous waste exports and requirements for US receiving facilities for import consent documentation of incoming hazardous waste import shipments. This rule was published by EPA on 01/08/10 at [75 FR 1236](#). Adoption of this rule is optional to States. The second rule covers Hazardous Waste Technical Corrections and Clarifications published 03/18/10 at 75 FR 12989. The rule makes corrections to errors made by EPA. Some corrections are necessary to make conforming changes to all appropriate parts of RCRA hazardous for rules that



have since been promulgated. Changes clarify existing parts of the hazardous waste regulatory program and update references to DOT regulations that have changed since publication of various RCRA final rules. SCDHEC intends to correct omissions in language and errors made by the South Carolina Hazardous Waste Management (HWM) program. South Carolina HWM Regulations will be adopted verbatim to match the Code of Federal Regulations. Some errors and omissions being corrected were a result of an incomplete transfer of information from the EPA to the State. Corrections will bring South Carolina HWMR into conformity with the US Code of Federal Regulations. Proposed corrections will be made to regulations previously approved and adopted by the SCDHEC Board and approved by the Legislature. No new rules will be included in the corrections. Comments were due 07/26/11. Contact: Richard Haynes, (803) 896-4070

## Tennessee

*Legislative Session Convened 01/11/11; Adjourn 05/21/11*

*Effective Dates of Legislation: 40 days after signing or as provided in the Act.*



### Final Rules

**UST PROGRAM (TAC 1200-1-15.1-.3, .7)** TDEC has adopted a rule to update UST pre-installation notification requirements. The rule adds a provision requiring owners installing UST systems that contain a petroleum substance blended with more than 10% alcohol products by volume, to submit documentation at least 15 days prior to commencement of installation that demonstrates the UST system is compatible with the product being stored. The rulemaking would replace the current rule regarding UST closure requirements. It also provides forms required for submission of information. A public hearing was held 01/20/11, and comments were due 01/26/11. The rule was adopted on 07/11/2011 and becomes effective on 10/09/2011.

[Notice of Proposed Rulemaking](#)

Contact: Rhonda Key, 615-532-0972

### Proposed Rules

**LEAD-BASED PAINT ABATEMENT (1200-1-18-.1-.6, 0400-13-1.1-.6)** TDEC has proposed amendments that would provide procedures and requirements for accreditation of lead-based paint activities and renovation training programs; outline procedures and requirements for certification of individuals and firms engaged in lead-based paint activities; and provide work practice standards for performing such activities. Amendments would repeal unnecessary provisions, and stipulate that all lead-based paint activities be performed by certified individuals and firms. OGC completed its review the week of 03/29/10. The rule was sent to the Attorney General for review and to ensure that legislative authorities are in existence and cited properly. The rule remains at the Attorney General's Office. It is anticipated that the rule will be filed with the Secretary of State in 2011. After that, it will be given an effective date that is 90 days from that log in.

[Notice of Proposed Rulemaking](#)

Contact: [Adrianne White](#), 615-532-0885

**STATE SOLID WASTE REDUCTION GOALS (TAC 1200-1-7-.1, -.9, -.10)** TDEC has proposed amendments to address state waste reduction goals: reduce annually, the amount of solid waste going to Class I, Class III, and Class IV landfills. The rule addresses a private sector survey that would establish a baseline index for waste reduction and recycling activities, as well as monitor change. The current waste disposal reduction goal would be deleted in its entirety. Amendments would add definitions for calculated generation, municipal solid waste, E-scrap, local government, material derived fuels and waste to energy facility/combustor. The rule did not go before the Solid Waste Disposal Control Board at the 12/07/10 meeting. There will be meetings with stakeholders in 2011 to help to shape draft language. It will likely be several months before the new rule language is drafted.

[Proposed Rule](#)

Contact: [Greg Luke](#), 615-532-0874

**UST PROGRAM (TAC 1200-1-15.1-.16)** TDEC has proposed to renumber rules regarding the UST Program to include program scope, definitions and proprietary information; system installation and operation; notification, reporting and record keeping; release detection, reporting, investigation and confirmation; petroleum release response, remediation and risk management; out-of-service UST systems and closure; financial responsibility; petroleum UST fund; fee collection; appeals; indicia of ownership; voluntary registry; record retention by the UST Division; petroleum product delivery. Also, the certified operator program in Chapters 1200-1-15-.1 through .16 would be moved to new Chapters 0400-18-1-.1 through .16. The rules were proposed 06/30/11. A public hearing is scheduled for, and comments are due 08/25/11.

[Notice of Proposed Rulemaking](#)

[Notice of Rulemaking Hearing and Text](#)

Contact: Rhonda Key, 615-532-0972

**HAZARDOUS WASTE PROGRAM (TAC 1200-1-11-1 THROUGH .5)** TDEC is proposing to repeal rules regarding solid waste management in Chapter 1200-01-11 and move them to new Chapter 0400-12-01. The effort establishes a voluntary alternate set of generator requirements applicable to laboratories owned by eligible academic entities that are flexible and protective, and addresses the specific nature of hazardous waste generation and accumulation in these laboratories. The rule would adopt Federal changes to agreements concerning transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD). The rule was proposed 06/10/11. A public hearing was held 08/05/11, and the comment deadline is 08/10/11.

[Notice of Rulemaking Hearing](#)

Contact: [Mr. David Moran](#), 615-532-0875

# Frequently Used Acronyms

ADEM – Alabama Department of Environmental Management	JCARR – Joint Committee on Administrative Regulation Review
AEPI – Army Environmental Policy Institute	LRC – Legislative Research Commission
AKO – Army Knowledge Online	MSDEQ – Mississippi Department of Environmental Quality
AQC – Air Quality Committee	NAAQS – National Ambient Air Quality Standards
ARRS – Administrative Regulation Review Subcommittee	NCDENR – North Carolina Department of Natural Resources
ASHRAE - American Society of Heating, Refrigerating, and Air-Conditioning Engineers	NEPA – National Environmental Policy Act
AST – Aboveground Storage Tank	NESHAPs – National Emission Standards for Hazardous Air Pollutants
ATDSR - Agency for Toxic Substances and Disease Registry	NMFS – National Marine Fisheries Service
BHEC – Board of Health and Environmental Control	NOAA – National Oceanic and Atmospheric Administration
BMP - Best Management Practices	NO <sub>2</sub> – Nitrous Dioxide
BNR – Board of Natural Resources	NO <sub>x</sub> – Nitrogen Oxide
CAA – Clean Air Act	NASA – National Aeronautic and Space Administration
CAIR – Clean Air Interstate Rule	NPDES – National Pollutant Discharge Elimination System
CEQ – Council on Environmental Quality	OSD – Office of the Secretary of Defense
CO - Carbon Monoxide	OREGA-S– Office of Regional Environmental and Governmental Affairs—Southern
CO <sub>2</sub> – Carbon Dioxide	PM2.5 – Fine Particulate Matter
CWA – Clean Water Act	PM10 — Coarse Particulate Matter
CZMA – Coastal Zone Management Act	PROSPECT - Proponent-Sponsored Engineer Corps Training
DLA – Defense Logistics Agency	PSD – Prevention of Significant Deterioration
DOE – Department of Energy	RRC – Rules Review Commission
DoD – Department of Defense	SCDHEC – South Carolina Department of Health and Control
DOI – Department of Interior	SDWA – Safe Drinking Water Act
EIS – Environmental Impact Statement	SIP – State Implementation Plan
EO – Executive Order	SOC – Statement of Consideration
EMC – Environmental Management Commission	SO <sub>2</sub> - Sulfur Dioxide
EPA – Environmental Protection Agency	SFWMD—Southwest FL Water Management District
EPCRA – Emergency Planning and Community Right-to-Know Act	TAC – Technical Advisory Committee
ERC – Environmental Regulation Commission	TDEC – Tennessee Department of Environment and Conservation
ESA – Endangered Species Act	UECA – Uniform Environmental Covenants Act
FAW – Florida Administrative Weekly	USACE – United States Army Corps of Engineers
FDA – Food and Drug Administration	USDA – United States Department of Agriculture
FLDEP – Florida Department of Environmental Protection	USFWS – United States Fish and Wildlife Service
GADNR – Georgia Department of Natural Resources	UST – Underground Storage Tank
GAEPD – Georgia Environmental Protection Division	VOC – Volatile Organic Compound
GAO – Government Accountability Office	µg/m <sup>3</sup> —Micrograms per Meter Cubed
GC – Groundwater Committee	
GHG – Greenhouse Gas	
HAP - Hazardous Air Pollutant	
INRMP - Integrated Natural Resources Management Plan	
KDEP – Kentucky Department of Environmental Protection	
KEEC - Kentucky Energy and Environment Cabinet	